

Consumer Product Safety Commission

§ 1027.7

section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514).

§ 1027.5 Hearing.

(a) *Request for hearing.* (1) An employee may file a petition for an oral or paper hearing in accordance with the instructions outlined in the agency's notice to offset.

(2) A hearing may be requested by filing a written petition addressed to the Executive Director stating why the employee disputes the existence or amount of the debt or, in the case of an individual whose repayment schedule has been established other than by a written agreement, concerning the terms of the repayment schedule. The petition for a hearing must be received by the Executive Director not later than fifteen (15) calendar days after the employee's receipt of the offset notice, or notice of the terms of the payment schedule, unless the employee can show good cause for failing to meet the filing deadline.

(b) *Hearing procedures.* (1) The hearing will be presided over by an impartial hearing official.

(2) The hearing shall conform to procedures contained in the Federal Claims Collection Standards, 4 CFR 102.3(c). The burden shall be on the employee to demonstrate that the existence or the amount of the debt is in error.

§ 1027.6 Written decision.

(a) The hearing official shall issue a final written opinion no later than 60 days after the filing of the petition.

(b) The written opinion will include: A statement of the facts presented to demonstrate the nature and origin of the alleged debt; the hearing official's analysis, findings, and conclusions; the amount and validity of the debt; and the repayment schedule.

§ 1027.7 Coordinating offset with another Federal agency.

(a) *The CPSC as the creditor agency.* (1) When the Executive Director determines that an employee of another agency (i.e., the paying agency) owes a debt to the CPSC, the Executive Director shall, as appropriate:

(i) Certify in writing to the paying agency that the employee owes the

debt, the amount and basis of the debt, the date on which payment was due, and the date the Government's right to collect the debt accrued, and that this part 1027 has been approved by the Office of Personnel Management.

(ii) Unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of the required procedures, and the written consent is sent to the paying agency, the Executive Director must advise the paying agency of the action(s) taken under this part 1027, and the date(s) they were taken.

(iii) Request the paying agency to collect the debt by salary offset. If deductions must be made in installments, the Executive Director may recommend to the paying agency the amount or percentage of disposable pay to be collected in each installment;

(iv) Arrange for a hearing upon the proper petitioning by the employee;

(v) If the employee is in the process of separating from the Federal service, the CPSC must submit its debt claim to the paying agency as provided in this part. The paying agency must certify the total amount collected, give a copy of the certification to the employee, and send a copy of the certification and notice of the employee's separation to the CPSC. If the paying agency is aware that the employee is entitled to Civil Service Retirement and Disability Fund or other similar payments, it must certify to the agency responsible for making such payments that the debtor owes a debt, including the amount of the debt, and that the provisions of 5 CFR 550.1108 have been followed; and

(vi) If the employee has already separated from federal service and all payments due from the paying agency have been paid, the Executive Director may request, unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(2) [Reserved]

(b) *The CPSC as the paying agency.* (1) Upon receipt of a properly certified debt claim from another agency, deductions will be scheduled to begin at the next established pay interval. The

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employee must receive written notice that CPSC has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). CPSC shall not review the merits of the creditor agency's determination of the validity or the amount of the certified claim.

(2) If the employee transfers to another agency after the creditor agency has submitted its debt claim to CPSC and before the debt is collected completely, CPSC must certify the amount collected. One copy of the certification must be furnished to the employee. A copy must be furnished to the creditor agency with notice of the employee's transfer.

§ 1027.8 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Executive Director's notice of intention to offset as provided in § 1027.4. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period must not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Unliquidated debts may be offset against any financial payment due to a separated employee including but not limited to final salary or leave payment in accordance with 31 U.S.C. 3716.

§ 1027.9 Refunds.

(a) CPSC will promptly refund to an employee any amounts deducted to satisfy debts owed to CPSC when the debt is waived, found not owed to CPSC, or when directed by an administrative or judicial order.

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(b) Another creditor agency will promptly return to CPSC any amounts deducted by CPSC to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required by law, refunds under this paragraph shall not bear interest.

§ 1027.10 Statute of limitations.

(a) If a debt has been outstanding for more than 10 years after CPSC's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

(b) [Reserved]

§ 1027.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that the employee may have under 5 U.S.C. 5514 or any other provision of law.

§ 1027.12 Interest, penalties, and administrative costs.

Charges may be assessed on a debt for interest, penalties, and administrative costs in accordance with 31 U.S.C. 3717 and the Federal Claims Collection Standards, 4 CFR 101.1 *et seq.*

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